

TEACHERS' RETIRMENT BOARD
BENEFITS AND SERVICES COMMITTEE

SUBJECT: Thomas J. Arns
Consideration of Proposed Decision

ITEM NUMBER: 4

ATTACHMENT(S): 1

ACTION: X

DATE OF MEETING: May 6, 1999

INFORMATION: _____

PRESENTER (S): Mr. Haley / Ms. Bridges

Staff recommends that the Proposed Decision (PD) rendered by the Administrative Law Judge (ALJ) be rejected in its entirety; the transcript be ordered for the Committee to hear the matter at a subsequent meeting and permit Board debate on existing transcript arguments without the taking of new evidence. This case covers the issue of creditable compensation as it relates to the equitable treatment of members who are assigned additional duties above the full time equivalent for their classification.

The Whittier Union High School District employed Mr. Arns as a teacher. Due to over enrollment, teachers in the district were asked on a voluntary basis to teach an additional period for the school years 1993-94 through 1995-96. The school district devised a plan whereby a limited number of teachers would be offered the opportunity to volunteer to teach during their sixth period. In exchange, the teacher would be paid an additional salary, in the amount of twenty percent (20%) of his/her regular salary. The district did not check with the Membership Division of CalSTRS or the Los Angeles County Office of Education to determine if the additional compensation would be creditable for CalSTRS retirement purposes.

The member retired effective June 22, 1996 assuming the additional compensation would be included in his retirement calculation. During the 1996-97 school year, the Los Angeles County Office of Education discovered that the additional amount being paid for the sixth period was being reported as creditable earnings to CalSTRS. The Los Angeles County Office of Education instructed Whittier Union High School District to adjust the previously reported compensation for the sixth period correctly as overtime. Overtime is not creditable service for CalSTRS retirement purposes. The adjusted earnings required CalSTRS to recalculate the member's retirement allowance using a lower final compensation and adjust his allowance from \$3,219.71 to \$3,025.98. Additionally, an overpayment had occurred as a result of the incorrect higher allowance, which CalSTRS was in the process of collecting.

In the ALJ's decision, the judge agrees that the additional compensation for the sixth period must be classified as overtime. However, he adopted the doctrine of equitable estoppel and concluded: "The State Teachers' Retirement System of the State of California is estopped from making any reduction in the monthly retirement allowance awarded to the respondent on April 30, 1996. There has been no overpayment of retirement benefits made to respondent since his June 22, 1996 retirement. Respondent is, accordingly, entitled to maintain, as salary creditable towards the calculation of his monthly retirement allowance from STRS, the amount that he was paid to teach during the sixth period of his school day during the 1993/1994 and 1994/1995 school year."

Staff do not concur that the essential elements of equitable estoppel apply. Furthermore, staff do not conclude that the member should receive a greater allowance than he would otherwise receive in contradiction to the expressed provisions of the Teachers' Retirement Law. Therefore, the decision by the ALJ should be rejected.